

Before the  
COMMISSION ON COMMON OWNERSHIP COMMUNITIES

In the Matter of

Feliks & Regina Lakomiec  
34 Appledowre Court  
Germantown, MD 20876

Complainant

vs.

Greenfields at Brandermill Condominium  
11315 Appledowre Way  
Germantown, MD 20876

Respondent

Case No. 361-0

**DECISION AND ORDER**

The above case having come before the Commission on Common Ownership Communities for Montgomery County, Maryland pursuant to Sections 10B-5(i), 10B-9(a), 10B-10, 10B-11(e), 10B-12, and 10B-13 of the Montgomery Code 1994 as amended, and the Commission having considered the record, it is therefore this 3rd day of October, 1997 found, determined, and ordered as follows:

**FINDINGS OF FACT**

Based upon the record, the Commission makes the following findings of fact:

1. On April 14, 1997 Feliks and Regina Lakomiec unit owners in the condominium known as Greenfields at Brandermill, hereinafter the Complainants, filed a formal dispute with the Office of Common Ownership Communities.

2. On Wednesday, July 2, 1997 the Commission on Common Ownership Communities accepted jurisdiction of the dispute and appointed a hearing panel.

3. The Complainants seek a decision that the changes described in their December 13, 1996 request for approval submitted to the Greenfields at Brandermill Condominium, record pages 12-15 were approved because the Respondent failed to act on their application within sixty (60) days, resulting in automatic approval under the Respondent's document.

4. By letter dated August 27, 1997 from Jeffrey Van Grack to Sharon Wilder, Investigator, Office of Common Ownership Communities, Mr. Van Grack stated on behalf of the Respondent that "the Association will not challenge the improvements that were included on Mr. Lakomiec's application of December 13, 1996."

5. The Complainants have indicated that they are not willing to withdraw their Complaint, and that they want to proceed with the hearing scheduled for September 24, 1997 so that the panel may consider whether the Respondent should reimburse the Complainant's filing fee which is \$50.00.

6. Pursuant to Section 10-13(d)(3) a hearing panel may require the losing party in a dispute to pay all or part of the filing fee.

7. On September 12, 1997, the panel requested staff to advise the parties that the September 24, 1997 hearing was cancelled and that an order would follow.

#### CONCLUSIONS OF LAW

1. Respondent is bound by its representations in the August 27, 1997 letter.

2. Since the Complainants have received the relief they sought, this matter is moot.

3. The panel finds no sufficient legal or factual basis to award fees or costs to Complainants.

#### ORDER

In view of the foregoing, and based upon the record in this case, the Commission orders that:


1. The Respondent is estopped as a result of its representations from hereafter claiming that the improvements included on the Complainants' application of December 13, 1996 are not approved.

2. As a consequence, those improvements are hereafter deemed to be approved and this matter is moot.

3. Each party is to pay its own costs, filing fees, and attorney's fees, if any.

The foregoing was concurred in by panel members Goodman, Price and McCabe.

Any party aggrieved by the action of the Commission may file an administrative appeal to the Circuit Court of Montgomery County, Maryland within thirty (30) days from the date of this order pursuant to Title 7, Chapter 200, Maryland Rules of Procedure.

  
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John F. McCabe, Jr., Panel Chairperson  
Commission on Common Ownership Communities